

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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**FINAL STATEMENT OF REASONS****CALIFORNIA CODE OF REGULATIONS**

TITLE 8: Division 1, Chapter 4, Subchapter 7, Article 47, Section 4086
of the General Industry Safety Orders.

Momentary Contact Devices for Portable Power Driven Augers**MODIFICATIONS AND RESPONSE TO COMMENTS RESULTING FROM
THE 45-DAY PUBLIC COMMENT PERIOD**

There are no modifications to the information contained in the Initial Statement of Reasons.

Summary and Response to Written and Oral Comments:**I. Written Comments**

Mr. Ken Nishiyama Atha, Regional Administrator, U.S. Department of Labor, Occupational Safety and Health Administration, San Francisco, California, by letter dated August 6, 2009.

Comment:

Mr. Atha stated that based on their review, the proposal is at least as effective as the comparable federal standard.

The Board acknowledges Mr. Atha's comment and participation in the Board's rulemaking process.

II. Oral Comments

Oral comments received at the August 20, 2009, Public Hearing in Sacramento, California.

Mr. Bill Jackson, Board Member

Comment:

Mr. Jackson suggested relocating the proposal to a location within the General Industry Safety Orders (hand tools, power tools) which would make it easier to find rather than in a location that addresses plumbing tools.

Response:

While Section 4086 discusses portable pipe threading/cutting machines it also mentions portable power drives which have application outside of plumbing work. Section 4086 is therefore not specific to plumbing tools, machinery or related equipment. The Board notes this section is a general catch all section devoted to power disconnection equipment regardless of the application and bears the title momentary contact devices without regard to trade, industry or job operation. There are no sections in General Industry Safety Orders (GISO), Group 6 that address hand or power tools per se. In fact, other hand tool/power tool sections are located in orders outside the GISO or in industry specific standards such as tree work; therefore, the Board believes this section is the best location for the proposed language.

For this reason, the Board believes no modification of the proposal is necessary.

Mr. Willie Washington, Board Member

Comment No.1:

Mr. Washington stated he was concerned employers who had to retrofit equipment would not have sufficient time to comply with the proposal.

Response:

The Board believes that portable power driven augers have been provided with momentary contact devices since their development, which has been corroborated by the staff's discussions with auger manufacturers and end users, thus there should be no concern over compliance. Further, time for retrofitting would be provided by the period of time that elapses between filing the proposal with the Secretary of State and the effective date of the proposal.

The Board believes further modification of the proposal is not necessary.

Comment No.2:

Mr. Washington also expressed concern about the location of this standard in Title 8, stating that it would be better located in a "hand tools" area.

Response:

Please see the response to Mr. Jackson's comment.

ADDITIONAL DOCUMENTS RELIED UPON

None.

ADDITIONAL DOCUMENTS INCORPORATED BY REFERENCE

None.

DETERMINATION OF MANDATE

This standard does not impose a mandate on local agencies or school districts as indicated in the Initial Statement of Reasons.

ALTERNATIVES CONSIDERED

The Board invited interested persons to present statements or arguments with respect to alternatives to the proposed regulation. No alternative considered by the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the adopted action.